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*A Treatise on the Law of Public Utilities Operating in Cities and Towns.* By OSCAR L. POND. (Indianapolis: The Bobbs-Merrill Company. 1913. Pp. liv, 954. \$6.00.)

We have in this thick volume an authoritative and practical treatise on the law of public utilities, based on several hundred court decisions—most of them comparatively recent. The author's aim and method can best be set forth by quoting and condensing freely from his own words in the introductory chapter.

This treatise . . . attempts to ascertain both the nature of the municipal corporation as expressed in law . . . to discover what limitations are placed on municipal activity by our constitutions . . . and also to ascertain what are the most efficient methods of regulation and control available to the state or municipality. . . . The public utility commission is the latest form of securing the necessary intelligent regulation and control and is attended with the least possible expenditure of money and time. . . . The theory of the regulation of municipal public utilities by the state through such a commission is to avoid competition which is now generally recognized as a needless economic waste and an entirely insufficient method of securing the necessary regulation and control.

Municipal corporations act in two capacities, governmental or public and business or private. When acting in a business capacity the municipal corporation is liable to the consumer the same as a private corporation is. Court decisions are favoring a liberal construction of the business powers. Franchises are construed strictly against the grantee. There is no exclusive franchise under the implied powers of the municipality. Some conservative court decisions find public utility systems to be additional servitudes, while progressive decisions hold the contrary. Street privileges and police power are fully defined by the author.

The rate question—the most interesting part of the book to the economist—receives competent and adequate treatment. The reasonableness of the rate which the city has a right to fix leads the author into a discussion of these considerations: cost of service; value of service; reasonable return on fair value of investment (the word “investment” is used by the author as synonymous with “property”); physical depreciation and obsolescence; risk of investment; good-will (“no good-will under monopoly, for there is no choice”). Four theories of valuation are treated, namely, original cost, cost of reproduction, outstanding capitalization, and present value. The courts are inclined to accept valuation as meaning value of “going concern with established

income," and not merely the "bare bones of the plant." The author commends the sliding scale of rates. The Wisconsin Public Utilities law is approved for requiring capitalization and investment to coincide, and especially approved for forbidding competition. Adequate regulation of municipal ownership, one or the other, is declared to be inevitable. The power of municipal ownership should always be available.

This work is excellent from both the legal and the economic standpoint. The chapters on rates are the most unsatisfactory and inconclusive, through no fault of the author's but due wholly to the present unhappy state of judicial opinion on this politico-economic-legal question. The probable solution is mentioned above. While in every sense a standard legal treatise, yet the author wisely gives in each chapter just enough subjective treatment to save the work from being absolutely colorless, a fault which many legal works have. There are printed in full as appendices the New York Public Service Commission law and the Public Utilities law of Wisconsin and of Indiana.

JAMES E. BOYLE.

*University of North Dakota.*

#### NEW BOOKS

COUSE, H. A. *The law of private corporations in Ohio.* (Cincinnati: W. H. Anderson Co. 1914. 2 vols. \$13.)

DEWING, A. S. *Corporate promotions and reorganizations.* Harvard economic studies, X. (Cambridge: Harvard University Press. 1914. Pp. 670. \$2.50.)

To be reviewed.

EBNER, G. *Die Kartellgeschichte der deutschen Röhrenindustrie.* (Berlin: Deutscher Montan-Bund. 1913. Pp. 48. 1 M.)

GOERRIG, R. *Der Tabaktrust und seine Gefahren für Deutschland.* (Dresden: F. E. Boden. 1914. Pp. 40.)

HILL, J. P. and PADGETT, A. R. *Annotated public service commission law of Maryland, with rules of commission and forms.* (Baltimore: M. Curlander. 1913. Pp. viii, 212. \$3.)

HIRST, M. E. *The story of trusts.* The nation's library, no. 5. (London: Collins. 1913. Pp. 264. 1s.)

MUNSON, C. L. *The public service company law of Pennsylvania (approved July 26, 1913). Digested, topically arranged, and indexed.* (Williamsport, Pa.: Grit Pub. Co. 1913. Pp. 64.)

RUSSELL, S. *The disintegration of monopoly, and other articles.* (Salt Lake City: Samuel Russell. 1913. Pp. 63. 50c.)